**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

UNITED STATES OF AMERICA, *Plaintiff,* v. 1.08 ACRES OF LAND, MORE OR LESS, SITUATE IN CAMERON COUNTY, TEXAS; AND DONALD F. PHILLIPP, ET AL., *Defendants.*	§ § § § § § § § § § § §	CASE NO. 1:08-cv-217 Tract No. RGV-HRL-1006 RGV-HRL-1006E-2

JOINT MOTION FOR ENTRY OF FINAL JUDGMENT ESTABLISHING JUST COMPENSATION, DISTRIBUTING FUNDS ON DEPOSIT IN THE REGISTRY OF THE COURT, AND CLOSING CASE

On May 30, 2008, this proceeding commenced with the filing of a Complaint (Docket No. 1) and Declaration of Taking (Docket No. 2) in this Honorable Court in the name of the United States of America for the acquisition of certain interests in lands identified as Tracts RGV-HRL-1006 and RGV-HRL-1006E-2 (a now expired temporary work easement) situated in Cameron County, Texas. On February 17, 2009 the United States filed its Amended Declaration of Taking (Docket No. 28) to clarify the property interests acquired and to add additional interested parties.

Donald and Janice Phillipp (herein referred to as "Defendants"), and through there attorney of record, David Garza, have agreed to accept the sum of $40,000.00 as just compensation for the takings at issue in this case. On August 9, 2009, the United States filed with the Court its Notice of Settlement (Docket No. 43) of this cause. The Clerk has previously disbursed the $40,000.00 plus interest to Defendants.

The United States and Defendants make this joint motion for an Order: (1) entering a Final Judgment establishing the just compensation for the taking of Tracts RGV-HRL-1006 and RGV-HRL-1006E-2 ("Subject Property"), which interests are more particularly described in Schedules "EEE" in the Complaint and in the Declaration of Taking; (2) disbursing the remaining overpayment in the Registry of the Court to the United States, and (3) closing this case on the Court's docket. As grounds for this motion, the parties jointly state that:

1. The United States and Defendants have and do hereby confirm and agree that the full and just compensation payable by the United States for the taking of the Estate in Subject Property shall be the total sum of $40,000.00 in full satisfaction of any and all claims of whatsoever nature against the United States by reason of the institution and prosecution of this action.

2. Defendants warrant that they were the owners of Subject Property on the date of their respective takings; that they have the exclusive right to the compensation herein, excepting unpaid taxes and assessments, if any; and that no other party is entitled to the same or any part thereof by reason of any unrecorded agreement.

3. In the event that any other party is ultimately determined by a court of competent jurisdiction to have any right to receive compensation for the Estates in Subject Property, the Defendants, shall refund into the Registry of the Court the compensation distributed herein, or such part thereof as the Court may direct, with interest thereon at an annual rate calculated pursuant to 40 U. S. Code 3116 (2006), from the date of receipt of the respective deposits by the Defendants to the date of repayment into the Registry of the Court.

4. The stipulated just compensation deposited by the United States into the registry of the Court for the tracts at issue in this case has heretofore been paid.

5. The United States also deposited additional funds into the registry of the Court to fund the relocation of a water well located in, or near, the land acquired in this case. However, the parties have determined that the "water well pump" noted on the survey supporting the Declaration of Taking, as amended, Doc. No. 28-2, Schedule DD, does not have to be relocated as part of this action. The Declaration of Taking, as amended, states that the "estate taken excepts and excludes all interests in . . . water distribution and drainage systems." Doc. No. 48-1 at Schedule EEE. With regard to the water well and its location, the United States makes no representations about any other commitments, legal requirements, or agreements that are not part of this condemnation action.

6. The parties request that the remaining funds in the registry of the Court be refunded to the United States.

7. The parties shall be responsible for their own legal fees, costs, and expenses, including attorneys' fees, consultants' fees, and any other expenses or costs; that they shall take no appeal from any rulings or judgments made by the Court in this action; and the parties consent to the entry of all orders and judgments necessary to effectuate this joint motion.

8. There being no outstanding taxes or assessments due or owing, Defendants shall be responsible for paying any taxes or assessments owed on the Subject Property through the dates of their respective takes.

9. Defendants shall save and hold harmless the United States of America from all claims or liability resulting from any unrecorded leases or agreements affecting the Subject Property.

10. The parties request that the Court enter an order closing this case on the Court's docket.

Respectfully submitted,

DEFENDANTS:

David Garza
Garza & Garza
680 E. St. Charles St.
Brownsville, TX 78520
Tel: (956) 5414914
Fax: (956) 542-4703

Attorney for Defendants

PLAINTIFF:

KENNETH MAGIDSON
United States Attorney

Jimmy A. Rodriguez
Assistant United States Attorney
Attorney in Charge
Southern District of Texas
Texas Bar No. 24037378
Federal ID No. 572175
P.O. Box 61129
Houston, Texas 77208
Tel: (713) 567-9532
Fax: (713) 718-3303
E-mail:jimmy.rodriguez2@usdoj.gov
Attorney-in-Charge for Plaintiff

CERTIFICATE OF SERVICE

I, Jimmy A. Rodriguez, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on March 5th, 2014, I mailed a true and correct copy of the foregoing motion via certified mail to the following:

David Garza
Garza and Garza
680 E. St. Charles, #300
Brownsville, TX 78520

By: ______________________
Jimmy A. Rodriguez
Assistant United States Attorney